

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION**

JAMES P. BIRTS, et al.)
vs.)
Plaintiffs)
JOHN R. VERMILLION,et al.) Case 4:08-cv-4011-HFB
Defendants)
vs.)
Plaintiffs)
vs.)
Defendants)

FINAL SCHEDULING ORDER

This case is reset for jury trial in TEXARKANA, ARKANSAS, at the call of the Court during the week of **May 23, 2011, beginning at 9:00 a.m.** Counsel and unrepresented parties are directed to report to the Judge's chambers at **8:00 a.m.** on the date of trial unless otherwise notified.

All documents filed with the United States District Court for the Western District of Arkansas must be filed electronically. To register as a CM/ECF user, review the CM/ECF Administrative Policies and Procedures and to learn more about electronic filing, consult the Court's web site **www.arwd.uscourts.gov**.

Parties are directed to comply with the following:

1. **CM/ECF Filings.**

Counsel must provide **one (1)** hard copy of any CM/ECF Filing that exceeds **20 pages** to the Court via U.S. Mail at the following address: 101 S. Jackson, Rm 219, El Dorado, Arkansas 71730.

2. Discovery.

As agreed by the parties, the discovery cutoff is January 31, 2011. Depositions, including depositions for use as evidence, must be completed prior to the discovery cutoff date.

3. Motions.

Motions for Class Certification must be filed no later than the **December 20, 2010**. Defendants' response to Plaintiffs' motion for Class Certification must be filed no later than **January 24, 2011**.

Motions to amend pleadings or to join other parties must be filed as soon as counsel can determine that they are necessary, however, no later than **60 days** before the close of discovery, unless good cause is shown for the delay.

Motions in Limine and Daubert Motions, must be filed no later than **28 days** prior to trial.

Summary Judgment motions must be filed no later than 30 days after the close of discovery.

All other motions must be filed no later than **28 days** prior to trial unless good cause is shown for delay.

With the exception of Summary Judgment Motions, responses to motions must be filed no later than **14 days** from the file date of any motion. The Court will consider a reply if filed before issuance of a decision on the pending motion.

4. Expert Disclosure.

Expert disclosure must be made by **December 20, 2010**. Rebuttal expert witness disclosures must be made by **January 19, 2011**. Depositions of expert witnesses must be completed within the time allowed for discovery.

5. Pretrial Disclosure Sheets

Pretrial disclosure sheets are to be filed no later than **30 days** prior to trial. An outline for the pretrial disclosure sheet is in Local Rule 26.2, which may be found on the Court's website at www.arwd.uscourts.gov. Pretrial disclosure sheets must be filed electronically. Objections to pretrial disclosure sheets shall be electronically filed within **14 days** after the filing of the pretrial disclosure sheets. Consult Fed.R.Civ.P. 26(a)(3) for the type of objections which may be made and the type of objections which will be deemed waived if not raised.

If any party anticipates the trial will take more than **three (3)** days, the Court should be immediately notified by sending an e-mail to HFBinfo@arwd.uscourts.gov.

6. Jury Instructions/Proposed Findings of Facts and Conclusions of Law.

In all jury cases, proposed jury instructions shall be submitted to the Court at HFBinfo@arwd.uscourts.gov in word processing format, with copies to other counsel, no later than **14 days** prior to the scheduled trial date. Citations of authority for any instruction requested shall be made either on the instruction or by separate statement. In non-jury cases, proposed findings of fact and conclusions of law must be submitted to the

Court at HFBinfo@arwd.uscourts.gov, in PDF format no later than **14 days** prior to the scheduled trial date.

7. Jury Selection

All civil jury trials shall be to an **eight (8)** person jury unless otherwise ordered by the Court upon written request made by a party pursuant to FED. R. CIV. P. 38.

8. Exhibits

Counsel are directed to mark and exchange all exhibits prior to trial. Exhibits are to be listed in numerical sequence, with notations as to which exhibits, if any, will be admitted by stipulation of the parties. **The AO187 – Exhibit and Witness List**, found on the Court's website at www.arwd.uscourts.gov under the category "Online Forms". The Exhibit and Witness List must be delivered to the courtroom deputy and the court reporter 30 minutes prior to trial.

9. Settlement

In the event of settlement, the Court should be advised by notifying the courtroom deputy, Robin Gray, or law clerk, Leslie Ligon, at (870) 862-1303. However, a case will not be removed from the trial docket until an order of disposition is entered by the Court, and if no such order is entered by the time the matter is reached for trial, it will be called for trial and tried or otherwise disposed.

10. Alternative Dispute Resolution

United States Magistrate Judges for the Western District of Arkansas, are available to conduct settlement conferences at the request of the litigants. The request should be made to the Court no later than **30 days** prior to the trial date. These proceedings have proven to be beneficial to the parties even if settlement is not achieved

Counsel is strongly encouraged to participate in a settlement conference prior to the trial date.

11 Continuances

No continuances will be granted except for good cause shown. That discovery is not complete or that parties are otherwise not ready for trial will not normally be considered good cause.

IT IS SO ORDERED, this 27th day of October, 2010.

/s/ Harry F. Barnes

Hon. Harry F. Barnes
United States District Judge